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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/767,785
Filing Date: January 29, 2004
Appellant(s): WERNER, CARL EDWARD

Wendy W. Koba (Reg. No. 30,509)
For Appellant

EXAMINER'S ANSWER

1. This is in response to the appeal brief filed May 7, 2009 appealing from the Office action mailed February 21, 2008.

Real Party in Interest

2. The appellants' statement identifying the real party in interest contained in the brief is correct.

Related Appeals and Interferences

3. The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

4. The appellants' statement of the status of claims contained in the brief is correct.

Status of Amendments

5. The appellants' statement of the status of amendments after contained in the brief is correct.

Summary of Claimed Subject Matter

6. The appellants' summary of claimed subject matter contained in the brief is correct.

Grounds of Rejection to be Reviewed on Appeal

7. The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

Claims Appendix

8. The appellants' copy of the appealed claims contained in the Appendix to the brief is correct.

Evidence Relied Upon

9.

2002/0198946	Wang et al.	12-2002
6,301,609	Aravamudan et al.	10-2001
2002/0065894	Dalal et al.	5-2002

Grounds of Rejection

10. The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 3, 5, 6, 8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US 2002/0198946) in view of Aravamudan et al. (US 6,301,609).

INDEPENDENT:

As per **claim 1**, Wang teaches an arrangement for transmitting electronic updates/alerts over a data network to a plurality of data network system users, the arrangement comprising:

a website update/alert administrator (see page 1, [0002]: "centralized alert delivery system"), coupled to the data network (see page 2, [0031]: "linked through a communication network"), for receiving update or alert messages from said network (see page 1, [0002] & [0012]: "To support delivery of time-critical, high-importance alerts"), said website update/alert administrator including:

a target listing of various IM users to associate users with different types of updates and alerts (see page 2, [0014]: "All alerts are first directed to the alert center, which then determines the best way at the time to route the alerts to the user, based on

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the user's static and dynamic preference of dependability"; pages 4-5, [0058]-[0059]; and pages 6-7, [0076]-[0077]),

a transmission element for sending an automated IM (see page 2, [0015]: "automated") to each user, the automated IM including the update/alert message information (see Fig.3); and

a listing of email addresses for each user, wherein an email version of an update/alert is sent if a user is not involved in the IM session at the time the automated IM is sent (see page 2, [0014]: "Each user in the system has an alert center that is always online for receiving and acknowledging IM-alerts and has at least one e-mail address as a fallback mechanism").

Although Wang teaches a database of instant messaging (IM) users (see Fig.3, #328 and page 4, [0058]: "The mapping module 328 is configured by the user 304 to direct alerts received from various sources to an SMS address 330, an e-mail address 332 and/or an IM address 334"), Wang does not explicitly teach of groups including a set of members from the plurality of data network system users.

Aravamudan teaches of groups including a set of members from the plurality of data network system users (see col.2, lines 33-35: "The user creates buddy groups and defines specific attributes to associate (buddies) included within each group").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Wang in view of Aravamudan by implementing groups including a set of members from the plurality of data network system users. One would be motivated to do so because "IM clients also allow the user

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to specify a list of known identifiers for others of the IM system, often defined as a "buddy list" (see applicant(s) disclosure paragraph [0003]). Therefore this would allow certain alerts to be delivered to groups rather than only individuals.

As per **claim 6**, Wang teaches a method of transmitting update/alert messages over a data network to a plurality of data network system users, the method comprising the steps of:

a) receiving, at a website administrator (see page 1, [0002]: "centralized alert delivery system"), an update/alert message to be sent to a plurality of system users (see page 2, [0014]: "Each user in the system has an alert center that is always online for receiving and acknowledging IM-alerts and has at least one e-mail address as a fallback mechanism");

b) using the message information, retrieving a targeted listing of IM users to whom the update/alert message should be sent (see page 2, [0014]: "All alerts are first directed to the alert center, which then determines the best way at the time to route the alerts to the user, based on the user's static and dynamic preference of dependability"; pages 4-5, [0058]-[0059]; and pages 6-7, [0076]-[0077]);

c) transmitting the update/alert message as an automated (see page 2, [0015]: "automated") IM to each user (see Fig.3);

d) determining if any users are not involved in the IM session at the time the automated IM is sent (see page 2, [0014]: "has at least one e-mail address as a fallback

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mechanism" and page 5, [0059]: "if the user is not available for IM or the alert fails to be delivered via IM, then the alert is delivered by e-mail"); and, if so,

e) retrieving the email address of each user not involved in the IM session (see page 2, [0014]: "has at least one e-mail address as a fallback mechanism" and page 5, [0059]: "if the user is not available for IM or the alert fails to be delivered via IM, then the alert is delivered by e-mail"); and

f) transmitting an email version of the automated IM to each user not involved in the IM session (see page 2, [0014]: "has at least one e-mail address as a fallback mechanism" and page 5, [0059]: "if the user is not available for IM or the alert fails to be delivered via IM, then the alert is delivered by e-mail").

Wang does not explicitly teach of groups including a set of members from the plurality of data network system users.

Aravamudan teaches of groups including a set of members from the plurality of data network system users (see co1.2, lines 33-35: "The user creates buddy groups and defines specific attributes to associate (buddies) included within each group").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Wang in view of Aravamudan by implementing groups including a set of members from the plurality of data network system users. One would be motivated to do so because "IM clients also allow the user to specify a list of known identifiers for others of the IM system, often defined as a "buddy list"" (see applicant(s) disclosure paragraph [0003]). Therefore this would allow certain alerts to be delivered to groups rather than only individuals.

DEPENDENT:

As per **claim 3**, which depends on claim 1, Wang further teaches wherein the email version of the update/alert requests an acknowledge reply from each IM group member receiving the email version of the update/alert (see page 5, [0060]: "requires explicit acknowledgement from the user to confirm" and [0066]-[0067]).

As per **claim 5**, which depends on claim 1, Wang further teaches wherein the automated IM includes a request for acknowledge of receipt by each IM group member to confirm that each member of the IM group has received the update/alert (see page 5, [0060]: "requires explicit acknowledgement from the user to confirm" and [0066]-[0067]).

As per **claim 8**, which depends on claim 1, Wang further teaches wherein the transmitted email version includes a request for each user to transmit a confirmation reply message (see page 5, [0060]: "requires explicit acknowledgement from the user to confirm" and [0066]-[0067]).

As per **claim 10**, which depends on claim 6, Wang further teaches wherein the automated IM message transmitted in step c) includes a request to acknowledge receipt of the message by each IM group member by transmitting a confirmation reply message to the website administrator (see page 5, [0060]: "requires explicit acknowledgement from the user to confirm" and [0066]-[0067]).

As per **claim 11**, which depends on claim 10, Wang further teaches wherein the method further comprises the step of: g) associating each received acknowledgement with a proper IM group member to determine which IM groups have received the

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update/alert and which IM group members have not received the update/alert (see page 5, [0060]: "requires explicit acknowledgement from the user to confirm" and [0066]-[0067]).

12. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US 2002/0198946) and Aravamudan et al. (US 6,301,609), and further in view of Dalai et al. (US 2002/0065894).

As per **claims 4 and 9**, which respectively depend on claims 1 and 6, Wang and Aravamudan do not explicitly teach wherein automated IM includes a trailer portion indicating that the IM is "automated" and "cannot be responded to".

Dalai teaches automated IM includes a trailer portion indicating that the IM is "automated" and "cannot be responded to" (see page 1, [0008]).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Wang and Aravamudan in view of Dalai so that an automated IM includes a trailer portion indicating that the IM is "automated" and "cannot be responded to". One would be motivated to do so because the content of the message is subjective.

Response to Argument

13. The examiner summarizes the various points raised by the appellant and addresses replies individually.

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14. As per appellants' arguments filed February 13, 2009, the appellant(s) argue in substance:

(a) That perspective of the appellant(s) invention and the perspective of the Aravamudan reference is different (see Appeal Brief, page 4).

In response to (a): The appellant(s) seem to be asserting that the limitation, "a target listing of various IM groups to associate sets of IM groups with different types of updates and alerts" somehow equates to the "website update/alert administrator" defining a particular "group". The examiner equates this limitation as merely the website update/alert administrator including a list that associates particular alerts to particular IM groups (emphasis added). There is no explicit claim or even a suggestion of defining anything much less a group.

(b) That there is no teaching of a "targeted list of various IM groups" by Wang (see Appeal Brief, page 4).

In response to (b): the examiner cited a better location to teach the aspect of a list to associate alerts to users. Wang teaches the alert center first receives the alert and determines the best way to route the alert to a user based on dependability (see page 2, paragraph [0014]). Wang further teaches the mapping module is configured by user to direct alerts received according to source, content, and category (see page 4, paragraph [0058] to page 5, paragraph [0059]). Clearly, not only is the delivery method

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associated by the user, but also the types of alerts. The appellant(s) assertion that all alerts are delivered to all users is an improper assertion.

(c) That the combination of Wang and Aravamudan would not render obvious the subject matter of the claimed invention (see Appeal Brief, page 5).

In response to (c): clearly, the incorporation of the teachings of Aravamudan, specifically a user group in place of simply a user would result in the alert system associating the alerts to a group rather than a single user. The combination of references would not result in “one “user” receiving the message in the Wang system, and the user then taking the responsibility to send the message on to the other users on hi ‘buddy list’” as asserted by the appellant(s).

(d) That the limitations of claims 4 and 9 are not disclosed or suggested by Dalal (see Appeal Brief, page 5).

In response to (d): although Dalal teaches an auto reply function, the contents of the auto reply is subjective and not a functional feature of the invention. Furthermore, it is noted that the features upon which applicant relies (i.e., message from a transmitter of a message) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Related Proceeding(s) Appendix

15. There are no copies of any decisions rendered by a court or the Board in any proceedings.

16. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Michael Won/

Primary Examiner AU2455

June 16, 2009

CONFEREES:

/saleh najjar/

Supervisory Patent Examiner, Art Unit 2455

/Philip B Tran/

Primary Examiner, Art Unit 2455